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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,366	02/14/2001	Thomas E. Brockley	1429.002	2305

7590

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
3611	

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary

Application No.

09/783,366

Applicant(s)

BROCKLEY ET AL.

Examiner

Cassandra Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5-9, 13, 17, 21-24, 28, 32, 37-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-9, 13, 17, 21-24, 28, 32 and 37-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5-9, 13, 17, 21-24, 28, 32, and 37-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al, U. S. Patent 5,813,546 in view of Feher, U. S. Patent 861,822 and Rand, U. S. Patent 405,678. Wilson teaches a cap display apparatus comprising a frame 41, a rigid back member 39, three dimensional objects (hat) 21, backing material 33 having a display surface 35, a transparent member 31 having a planar portion 16 and an expansion hollow portion 15 adapted to conform to the object (hat) 21, respectively. The frame 41 is adapted to hold the transparent member 31, the rigid back member 39, and the backing material 33 together. The frame has a semicircular front retaining edge or stop 43 (forward portion) abutting the front surface of the transparent member and has a rear retaining edge 45 abutting the rear surface of the back member 39.
3. As an optional feature, Wilson teaches a secondary display section 63 formed by removing some of the backing material 59 below the hollow portion 15. (See figure 3). This secondary display section 63 can be sized and shaped to accommodate a single ticket (not shown), or a number of tickets in a fan layout. *This permits the cap's collector*

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to simultaneously display tickets to an event associated with the cap (not shown). (See column 3, lines 41-47).

4. Wilson does not teach the display surface of the backing material having a picture thereon.

5. Rand teaches a three-dimensional picture comprising a frame **A** having a rebate or rear recess (first interface portion), a transparent cover **C**², a backing plate **B** having a picture thereon, and a three-dimensional object (bird).

6. Feher teaches an embossed picture comprising a frame 1 having a rebate or rear recess **a**, a transparent cover sheet 7, a foundation plate 2 having a facing of paper 4 mounted thereon, and an embossed or three-dimensional member 6. The plate 2, embossed or three-dimensional member 6, and sheet 7 are retained within the recess of the frame 1 by a suitable backing plate 9. The plate is held within the frame by tacks 10. The peripheral edges of the sheet 7 lie flush with the front surface of the paper 4 and are held in engagement therewith by molding 8 of frame 1.

7. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the display surface of the backing material of the cap display apparatus taught by the Wilson provided a picture on the backing material that corresponds with the three-dimensional object as taught by Rand to enhance the appearance of the display.

8. In addition, it would have been obvious to one having ordinary skill in the art at the time this invention was made to mount the display taught by Wilson and Rand

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within the frame taught by Feher as an alternate frame means whereby the display can be selectively inserted and removed from the rear of the frame.

9. With respect to claim 5, Wilson teaches a window piece 13 made of a sheet of transparent plastic. (See col. 2, lines 16-17).

10. With respect to claim 6 and 21, the window piece 13 has hollow form 15 including a crown section 17 and a bill section 19, designed to hold and cup the cap 21. (See column 2, lines 29-43).

11. With respect to claim 7 and 22, Wilson teaches the support comprises a frame 41 and backing 39.

12. With respect to claim 8, 9, 23 and 24, Wilson teaches a frame with a front semicircular having a front retaining edge or stop 43 abutting the front surface of the window piece 15 and a rear retaining edge 45 corresponding the to fastener. Feher teaches a frame with a rear rebate or recess a having forward interface 8 (the rear surface of the front fame member abuts the front surface of the clear celluloid sheet 7). Feher also teaches fastener in the form of a tack to hold the backing plate 9 in place.

13. With respect to claim 13 and 28, Rand teaches the back of the frame may be painted, colored, or arranged with any design or picture from a pleasing background. (See lines 28-33).

14. With respect to claims 37-45, since the applicant does not disclose that the specific scene described in the claims solves any stated problem or is for any particular purpose, it appears that any scene related to the object would perform equally well.

Response to Arguments

15. Applicant's arguments with respect to claims 1, 17, and 32 have been considered but are moot in view of the new ground(s) of rejection.

16. With respect to the applicant's arguments to the rejection under 35 U.S.C. § 112, the rejection has been withdrawn in view of applicant's arguments.

17. In addition, the applicant argues that the combination of Wilson and Rand changes the principle of operation of the display disclosed in Wilson for showing off the cap, and in particular showing off the logos, designs, etc. which are typically embroidered on the front of the cap. In particular, attempting to incorporate a picture having a scene relating to the cap that is visually associated therewith improperly changes the basic principal under which the display in Wilson is constructed for showing off the cap with a contrasting background.

18. As stated above, Wilson teaches a secondary display section 63 formed by removing some of the backing material 59 below the hollow portion 15. (See figure 3). This secondary display section 63 can be sized and shaped to accommodate a single ticket (not shown), or a number of tickets in a fan layout. *This permits the cap's collector to simultaneously display tickets to an event associated with the cap (not shown).* (See column 3, lines 41-47).

19. The examiner considers the ticket to correspond to a picture having indicia associated with the sports object, namely, the cap.

20. With this in mind, the examiner maintain that it would have been obvious to modify Wilson with Rand by providing the backing material taught by Wilson with indicia or a picture associated with the sports object.

21. Furthermore, the examiner maintains the position that the bird is an object used by the participant in the sport of hunting by providing an object or target in which the hunter aims. Rand teaches a back which may be "painted, colored, or arranged with any design or picture for a pleasing background". The picture depicted in figure 1 clearly shows a nature scene corresponding to the environment in which the bird inhabits; thereby provide a scene related to the object, namely the bird.

22. With respect to claimed 37-45, Rand teaches the concept of having a picture related to the object, the specific image on the picture is a design consideration.

23. Feher is cited to show means for securing the transparent sheet, a three-dimensional display and the backing within the frame by abutting the front surface of the transparent sheet to the inside surface of the rebate and by securing the rear of the backing with a tack.

Conclusion

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 703-308-2223. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.


Cassandra Davis
Primary Examiner
Art Unit 3611

CD
October 23, 2003